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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/607,613	06/27/2003	Adrian Kiermasz	LAM2P421	8005
25920	7590	12/23/2004	EXAMINER	
MARTINE PENILLA & GENCARELLA, LLP 710 LAKEWAY DRIVE SUITE 200 SUNNYVALE, CA 94085			RACHUBA, MAURINA T	
			ART UNIT	PAPER NUMBER
			3723	

DATE MAILED: 12/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/607,613	KIERMASZ ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	M Rachuba	3723	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 07 October 2004.

2a)  This action is **FINAL**.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

4)  Claim(s) 1-20 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 1-14 and 18-20 is/are rejected.

7)  Claim(s) 15-17 is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on 27 June 2003 is/are: a)  accepted or b)  objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All    b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper. No(s)/Mail Date 11/14/03.

4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_ .

5)  Notice of Informal Patent Application (PTO-152)

6)  Other: \_\_\_\_ .

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 1-6, 8-13 and 18-20 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The claims limit the apparatus or method to having or using a platen with "at least one aperture" and "at least one membrane covering the at least one aperture". This can be interpreted as: one membrane covering one aperture; one membrane covering a plurality of apertures; a plurality of membranes covering one aperture; or a plurality of membranes covering a plurality of apertures. Applicant's specification enables the invention of the first two interpretations, but not the last two interpretations. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Therefore the interpretation of the claim limitations cannot be limited by applicant's specification. Applicant may overcome this rejection by making clear that a membrane covers either one, or a plurality of apertures, that the aperture(s) is (are) covered by one membrane, or that the platen has zones of apertures each zone covered by a membrane. Please refer to applicant's figures 4A and 4B.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-5, 8-10, 14 and 18-19 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Nagahara et al, US005931719A. Note especially figures 2 and 3 and their descriptions. The examiner considers the air bladder to be a membrane.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. Claims 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nagahara '719 in view of Takahashi, US006135858A. '719 does not disclose the at least one localized fluid pressure platen zone is defined by a plurality of the apertures; and the at least one membrane covers all of the plurality of the apertures; or the at least one membrane comprises a separate membrane covering each separate group of the plurality of the apertures, each separate membrane is configured so that the separate membranes may collectively apply differential polishing pressures to the wafer. '858, in a device for controlling the pressure against a substrate, teaches providing zones defined by a plurality of apertures, with one membrane covering the apertures in each zone. It would have been obvious to one of ordinary skill to have provided '719, figures 1-4, with the zones of '858, to allow each zone to be individually controlled.

***Allowable Subject Matter***

8. Claims 11-13, 15-17 and 20 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

9. The following is a statement of reasons for the indication of allowable subject matter: the prior art of record does not disclose or fairly teach that a value of fluid pressure of the fluid-pressure fluid in the flexible pocket is a static pressure having a value in a range of pressure from about 1 to 2 psi greater than a value of a pressure of the fluid-bearing fluid; the fluid-bearing fluid has a tendency to freely-flow from the at least one fluid-bearing zone and out of the platen; the fluid-bearing structure being further configured with a gap that is normally open to permit relatively free-flow of the

fluid-bearing fluid to exit the fluid-bearing structure; each membrane is reconfigured by the polishing pressure control fluid plurality of apertures of the plurality of the received from the respective first respective localized fluid pressure zone so that the reconfigured membrane enters the gap and restricts the flow of the fluid-bearing fluid through the gap. Neither '719 nor '858, the closest prior art of record, allow the fluid to freely flow, nor disclose that the static pressure is greater than the pressure of the fluid.

***Conclusion***

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Other pressure members are cited of interest.
11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to M Rachuba whose telephone number is (571) 272-4493. The examiner can normally be reached on Monday-Thursday from 8:30 AM to 3:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Hail, can be reached on (571) 272-4485. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

M. Rachuba  
Primary Patent Examiner



12/2/04